

FILED

DEC - 9 2014

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 MIDLAND-ODESSA DIVISION

CLERK, U.S. DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 BY
 DEPUTY CLERK

UNITED STATES OF AMERICA

§
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§
§

vs.

NO: MO:12-CR-00011(5)-RAJ

(5) VINCENT FLORES

ORDER GRANTING MOVANT'S MOTION TO CORRECT CLERICAL ERROR
[DOCKET NUMBER 869]

Before the Court is Movant Vincent Flores's Motion to Correct Clerical Error Appearing on the Written Judgment and Incorporated Motion for Order Directing that Funds be Returned, [hereinafter, "Motion"], filed October 14, 2014. [docket number 869]. In his Motion, Movant demonstrates that the Court stated at sentencing that he would not have to pay his fine until his release from prison.

THE COURT:

I find that you do have the ability to pay a fine, and I assess a fine at \$10,000.00 to be paid upon your release from the Bureau of Prisons. And you are required to pay the mandatory special assessment to the Crime Victims Fund of \$100.00.

See Sentencing Transcript at 29 [docket number 775].

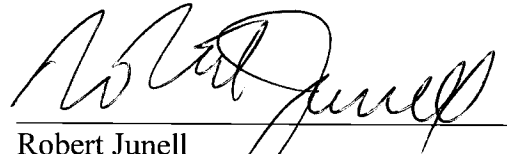
The conflict arises, however, in that Movant's Judgment in a Criminal Case states that, "The defendant shall pay a fine of \$10,000.00. Payment of this sum shall begin immediately." [docket number 738 at 7]. Where the orally-imposed sentence conflicts with the written judgment, the oral pronouncement controls. *United States v. Bigelow*, 462 F.3d 378, 381 (5th Cir. 2006). Generally, the Fifth Circuit remands and directs the district court to amend the written judgment to conform to the oral pronouncement. *See United States v. Martinez*, 250 F.3d 941, 942 (5th Cir. 2001).

In order to correct this obvious conflict, the Court now orders the Clerk of the Court to re-enter Movant's Judgment in a Criminal Case in such a manner that it comports to the Court's oral

pronouncement at Sentencing, deleting the "Payment of this sum shall begin immediately" language altogether.

IT IS SO ORDERED.

Signed this 9th day of December, 2014.



Robert Junell
United States District Court Judge